



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

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DA 07-736

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**PLEADING CYCLE ESTABLISHED FOR COMMENTS ON
PETITION OF M2Z NETWORKS, INC. FOR FORBEARANCE UNDER
47 U.S.C. § 160(c) TO PERMIT ACCEPTANCE AND GRANT OF ITS APPLICATION
FOR A LICENSE TO PROVIDE RADIO SERVICE IN THE 2155-2175 MHZ BAND**

WT Docket No. 07-30

Comments Due: March 19, 2007

Reply Comments Due: April 3, 2007

On September 1, 2006, M2Z Networks, Inc. (M2Z) filed a petition for forbearance¹ pursuant to Section 10(c) of the Communications Act of 1934, as amended (the Act), and Section 1.53 of the FCC's rules,² in connection with a license application that it filed on May 1, 2006.³ In its Forbearance Petition, M2Z asks that the Commission forbear from applying Sections 1.945(b) and (c) of its rules, "and any other rule, provision of the Act, or Commission policy, to M2Z's Application . . . , to the extent such rules, statutory provisions, or policies impede the acceptance and grant of the Application."⁴ Specifically, M2Z asserts that the Commission must forbear from these rules, to the extent that enforcement of these provisions would impede the acceptance and grant of M2Z's Application, because M2Z's request meets the three criteria set forth in Section 10(a) of the Act.⁵

¹ See In the Matter of Petition of M2Z Networks, Inc. for Forbearance under 47 U.S.C. § 160(c) Concerning Application of Sections 1.945(b) and (c) of the Commission's Rules and Other Regulatory and Statutory Provisions, WT Docket No. 07-30 (filed Sept. 1, 2006) (Forbearance Petition).

² See 47 U.S.C. § 160(c); 47 C.F.R. § 1.53.

³ See Application [of M2Z Networks, Inc.] for License and Authority to Provide a National Broadband Radio Service in the 2155-2175 MHz Band (filed May 5, 2006) (Application). On September 1, 2006, M2Z amended the Application to incorporate by reference its separately filed Forbearance Petition. See Letter from W. Kenneth Ferree, Esq., to Marlene Dortch, Secretary, FCC (Amendment to Pending Application, filed Sept. 1, 2006).

⁴ Forbearance Petition at 1.

⁵ 47 U.S.C. § 10(a). See Forbearance Petition at 18-35.

M2Z's Application was found, upon initial review, acceptable for filing, pursuant to the Commission's general statutory authority under Section 309 of the Communications Act of 1934, as amended.⁶ A Public Notice announcing that M2Z's Application was accepted for filing was released on January 31, 2007.⁷ Given the issuance of that Public Notice, to the extent that M2Z asks for forbearance to accept the Application for filing, that portion of the Forbearance Petition is moot.

This Public Notice establishes certain procedural requirements relating to consideration of the M2Z Forbearance Petition. This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. See 47 C.F.R. §§ 1.1200, 1.1206. Specifically, *ex parte* presentations that are made with respect to the issues involved in the Petition will be allowed but must be disclosed in accordance with the requirements of § 1.1206(b).⁸ Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must contain the presentation's substance and not merely list the subjects discussed.⁹ More than a one-or two-sentence description of the views and arguments presented is generally required.¹⁰ Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in Section 1.1206(b) of the Commission's rules, 47 C.F.R. § 1.1206(b).

The Forbearance Petition is available for public inspection and copying in the Commission's Reference Center, Room CY A257, 445 12th Street, S.W., Washington, DC 20554. Copies of the Petition also may be obtained via the Commission's Electronic Comment Filing System (ECFS) by entering the docket number, WT 07-30. Copies of the Petition are also available from Best Copy and Printing, Inc., telephone (800) 378-3160, facsimile (301) 816-0169, e-mail FCC@BCPIWEB.com.

Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments on M2Z's Forbearance Petition on or before March 19, 2007, and reply comments on or before April 3, 2007. All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Suite TW-A325, Washington, DC 20554. One (1) copy must be sent to Best Copy and Printing, Inc., 445 12th Street, Suite CY-B402, Washington, DC 20554, telephone 202-488-5300, facsimile 202-488-5563, or via e-mail FCC@BCPIWEB.COM.

Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See generally Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24121 (1998). Petitions or comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/cgb/ecfs/>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding,

⁶ See 47 U.S.C. § 309. See also 47 U.S.C. §§ 308(a) (stating that "the Commission may grant construction permits and station licenses . . . only upon written application therefore received by it") and 308(b) (requiring that Section 308(a) applications set forth "such facts as the Commission by regulation *may* prescribe," but not requiring the Commission to prescribe such regulations) (emphasis added).

⁷ See "Wireless Telecommunications Bureau Announces that M2Z Networks, Inc.'s Application for License and Authority to Provide a National Broadband Radio Service in the 2155-2175 MHz Band is Accepted for Filing," WT Docket No. 07-16, *Public Notice*, DA 07-492 (rel. Jan. 31, 2007).

⁸ 47 C.F.R. § 1.1206(b).

⁹ See "Commission Emphasizes the Public's Responsibilities in Permit-But-Disclose Proceedings," *Public Notice*, 15 FCC Rcd 19945 (2000).

¹⁰ See 47 C.F.R. § 1.1206(b)(2). For further guidance regarding the requirements and content of *ex parte* submissions, see also Fact Sheet, "FCC's Ex Parte Rules," July 2001, http://www.fcc.gov/ogc/admain/ex_partefactsheet.html. Other rules pertaining to oral and written presentations are set forth in § 1.1206(b) as well.

however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic petition or comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002.

- The filing hours at this location are 8:00 a.m. to 7:00 p.m.
- All hand deliveries must be held together with rubber bands or fasteners.
- Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554.
- All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- Parties shall send one copy of their filings to Best Copy and Printing, Inc., Portals II, 445 12th Street, SW, Room CY-B402, Washington, D.C. 20554, (800) 378-3160, e-mail FCC@BCPIWEB.com.

Comments filed in response to this Public Notice will be available for public inspection and copying during business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW, Room CY-A257, Washington, D.C. 20554, and via the Commission's Electronic Comment Filing System (ECFS) by entering the Docket Number, WT 07-30. The Petition or comments may also be purchased from Best Copy and Printing, Inc., telephone (800) 378-3160, facsimile (301) 816-0169, e-mail FCC@BCPIWEB.com.

Alternate formats of this Public Notice (computer diskette, large print, audio recording, and Braille) are available to persons with disabilities by contacting Brian Millin at (202) 418-7426 (voice), (202) 418-7365 (TTY), or send an e-mail to access@fcc.gov.

FOR FURTHER INFORMATION, CONTACT: Joel Taubenblatt of the Wireless Telecommunications Bureau, Broadband Division, at (202) 418-2487, joel.taubenblatt@fcc.gov. All press inquiries should be directed to Chelsea Fallon, at (202) 418-7991.

Action by the Chief, Wireless Telecommunications Bureau

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